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LEGISLATIVE ASSEMBLY DEBATES

TUESDAY, 8th FEBRUARY, 1938.

Vol. I—No. 7.

OFFICIAL REPORT



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LEGISLATIVE ASSEMBLY.

Tuesday, 8th February, 1938.

The Assembly met in the Assembly Chamber of the Council House at Eleven of the Clock, Mr. President (The Honourable Sir Abdur Rahim) in the Chair.

STARRED QUESTIONS AND ANSWERS.

(a) ORAL ANSWERS.

HOURS OF DUTY OF THE STATIONARY AND THE RUNNING STAFF ON THE NORTH-WESTERN RAILWAY.

171. ***Mr. Lalchand Navalrai:** (a) Will the Honourable the Railway Member be pleased to state if it is a fact that the Assistant Station Masters, Goods Clerks and such other subordinate staff in stationary duty perform eight hours duty and in case of emergency four hours more?

(b) Will the Honourable Member state the fixed hours for running staff like guards and van-sorters wherever they are, to perform their duty?

(c) Is it a fact that in case of emergency, they have to perform duty in all for sixteen hours? If so, what is the reason for this disparity between the former and the latter staff?

(d) Do Government realise the discontent prevailing amongst the running staff of the North Western Railway?

(e) Will Government be pleased to state if the aforesaid stationary and running staff get any extra allowance for doing duty for more than eight hours? If not, why not?

(f) Do Government propose to take from them duty in case of emergency for reasonably lesser time—in any case not for more than four hours? If not, why not?

The Honourable Sir Thomas Stewart: (a) On railways on which the Hours of Employment Regulations have been given statutory effect, Assistant Station Masters, Goods Clerks and other staff to whom these Regulations apply, are, subject to certain exceptions, not permitted to be employed for more than 84 hours in any week if their employment is 'essentially intermittent', and for more than 60 hours a week on the average in any month if their employment is other than 'essentially intermittent'. In cases of emergencies their duty hours may extend beyond these limits.

(b) The Hours of Employment Regulations do not apply to running staff like guards, and the like, but as far as practicable their hours of work are regulated within the limits laid down in these Regulations.

(c) Presumably the Honourable Member is referring to the North Western Railway. If so, Government are informed that both stationary

and running staff are liable to be kept on duty for 16 hours or more in emergent and exceptional cases.

(d) The North Western Railway Administration state that they are not aware of any discontentment prevailing amongst the running staff nor have they received any complaint or representation from such staff on the subject.

(e) As regards stationary staff, they are paid overtime in accordance with section 71C of the Indian Railways (Amendment) Act, 1930, a copy of which is in the Library of the House. Guards are allowed mileage allowance for the entire run.

(f) Does not arise in view of the reply to paragraphs (a) to (c) above.

Mr. Lalchand Navālrāi: May I know from the Honourable Member if there are van sorters working something like guards? Will they also be given this overtime?

The Honourable Sir Thomas Stewart: If I may read section 71C of the Indian Railways (Amendment) Act, the Honourable Member may be in a position to judge for himself:

"Subject to rules made under section 71E temporary exemptions of railway servants from the provisions of sub-section (1) and sub-section (2) may be made.

(a) when such temporary exemptions are necessary to avoid serious interference with the ordinary working of the railway, in cases of accident actual or threatened, or when urgent work is required to be done to the railway or to rolling stock, or in any emergency which could not have been foreseen or prevented; and

(b) in cases of exceptional pressure of work not falling within the scope of clause (a):

Provided that a railway servant exempted under clause (b) shall be paid for overtime at not less than one and a quarter times his ordinary rate of pay."

Mr. Lalchand Navalrai: May I know from the Honourable Member if this emergency occurs every day?

The Honourable Sir Thomas Stewart: I am afraid I can give no idea as to when emergencies arise or are likely to arise.

Mr. Lalchand Navalrai: May I request the Honourable Member to inform the Agent of the North Western Railway to use them only on an emergency and not for ordinary purposes and then call it emergency?

The Honourable Sir Thomas Stewart: I have no reason to believe that the Agent of the North Western Railway is not conforming with the terms of the statutory obligation that is imposed on him.

Mr. Lalchand Navalrai: I only want this question and answer to be sent to the Agent.

NON-RESERVATION OF RAILWAY COMPARTMENTS DURING KUMBH AND OTHER
MELAS.

172. ***Mr. Badri Dutt Pande:** Will the Honourable Member in charge of Railways and Communications be pleased to state if there is a circular

to the effect that during Kumbh and other big *Mela* days, no compartments are to be reserved? If so, are Government aware that this rule causes and has caused hardship in many cases?

The Honourable Sir Thomas Stewart: No circular of the kind referred to has been issued by the Railway Board. I understand, however, that, on the Bengal and North Western and East Indian Railways, to which lines it is presumed the Honourable Member's question refers, restrictions in regard to the reservation of compartments are imposed when circumstances necessitate such action being taken.

The only *mela* in connection with which such instructions have been issued on the Bengal and North Western Railway is the *Kartik Purnamashi Mela* held annually at Sonapore. For this *Mela*, the railway staff were advised that no reserved accommodation was to be allowed from the 17th to the 26th November, 1937, without a reference to the Traffic Manager.

For the *Magh Mela* at Allahabad, the East Indian Railway have recently issued instructions prohibiting reservation of third and intermediate class carriages or compartments to and from Prayag, Prayag Ghat and Phaphamau and first and second class carriages to and from Prayag Ghat, during the periods when a heavy rush is anticipated.

Government recognise that these restrictions on the reservation of accommodation cause inconvenience to some passengers, but it is believed that a far greater number would be inconvenienced if reservations were allowed.

Prof. N. G. Ranga: May I know whether any special trains are run on these occasions for relieving congestion?

The Honourable Sir Thomas Stewart: That question does not arise out of the one under answer.

Prof. N. G. Ranga: It arises because it raises the question of . . .

Mr. President (The Honourable Sir Abdur Rahim): This is a specific matter on which information may not be available to the Honourable Member.

Mr. Lalchand Navalrai: Is this system of no reservation going on on account of want of stock or the Government do not want money or because they get too much?

The Honourable Sir Thomas Stewart: The reason for the non-reservation is, I presume, pressure on the available space.

EXPENDITURE AND PERIOD OF TRAINING FOR OBTAINING A COMMERCIAL PILOT'S LICENCE.

†173. ***Mr. Govind V. Deshmukh:** Will the Honourable Member for Railways and Communications please state:

- (a) what a flying club subsidised by the Government in England and a club subsidised by the Government of India charge per hour to a person who wants to receive training for the licence of a Commercial pilot; and

† Answer to this question laid on the table, the questioner being absent.

- (b) the time required for completing the aforesaid training in England, France, and India; and whether the time required for training in India cannot be curtailed; if not, why not?

The Honourable Sir Thomas Stewart: (a) Very few flying clubs are fully organised for the training of commercial pilots. The usual flying rates at subsidised flying clubs in India are from Rs. 30 to Rs. 35 per hour for day flying and about Rs. 90 an hour for night flying. The corresponding charges in England are from Rs. 20 to Rs. 26 per hour for day flying and about Rs. 55 an hour for night flying.

(b) The time required for the training of a commercial pilot varies with many factors including the aptitude of the pilot. It could not take less than two years whether in India or in England. If, however, the Honourable Member is thinking of a curtailment of the flying experience required, this would be most undesirable for the reasons I explained on 6th October, 1937, in reply to part (i) of question No. 1027 by Mr Abdul Qaiyum.

ALLEGED VICTIMISATION OF THE MEMBERS OF THE NORTH WESTERN RAILWAY UNION

174. ***Mr. Lalchand Navalrai:** (a) Will the Honourable the Railway Member be pleased to state, with reference to starred question No. 988, put by Bhai Parma Nand on the 2nd October, 1937, whether the information promised in answer to the supplementary question put by me has been obtained?

(b) If so, have Government passed orders to direct the Agent, North Western Railway, to supply copies of the circulars referred to therein, to the Unions?

(c) With reference to the last supplementary question of the aforesaid question, will the Honourable Member state, if, when questions and answers are sent to the Agents, they inform the Honourable Member what action they have taken in connection with the subject matters of the questions? If so, what information has the Agent, North Western Railway supplied with regard to the complaint contained in part (c) of the aforesaid question No. 988?

The Honourable Sir Thomas Stewart: (a) Yes.

(b) No, as this is a matter within the competence of the Agent, North Western Railway, Government are not prepared to interfere. It is understood, however, that requests from the North Western Railway recognised Union for copies of particular orders, issued for general information of staff, are considered by the Agent and ordinarily complied with.

(c) Government have no reason to believe that when questions or replies thereto are sent to Agents of railways, for such action as they may consider necessary, the Agents do not take action if any is called for. Government are, therefore, unable to agree that Agents of railways should, as a rule, be asked to advise them of the action taken in such cases particularly those which are within the competence of the Agents of the railways concerned.

In regard to part (c) of starred question No. 988 asked by Bhai Parma Nand in this House on the 2nd October, 1937, Government are informed that the allegations against the senior Inspector, Watch and Wards, have been looked into and found to be incorrect. Government are further advised that the matter was discussed and settled at a meeting between the Deputy Agent, Personnel, and the Honorary General Secretary of the North Western Railway Union. A few cases of serious breaches of discipline and insubordination against some of the chowkidars are, however, under investigation.

Mr. Lalchand Navalrai: With regard to clause (c), my object was to know whether the Honourable Member, when he sends these questions to the Agent, gets at least the replies with regard to the questions put in the House; if so, how is the House to know unless they are placed on the table, or the reply is sent to the Honourable Member who put the question?

The Honourable Sir Thomas Stewart: I have already said that the Government of India have no reason to believe that the Agents do not take action where action is called for: it is, therefore, unnecessary to carry on further correspondence on these matters.

Mr. Lalchand Navalrai: Will the Honourable Member enlighten me on this point that when a question has been put and some thing has been done or not done by the Agent, how is this House to know what has been done or not done?

The Honourable Sir Thomas Stewart: By asking another question

OPENING OF A RAILWAY LINE BETWEEN KASHIPUR AND KALAGARH

175. ***Mr. Badri Dutt Pande:** (a) Is the Honourable the Railway Member aware that in 1926-27 a survey was made of a proposed 30-miles railway between Kashipur and Kalagarh *via* Thakurdwara, Jarpen, Rehar and Afzalgarh, etc., in the United Provinces by the Rohilkund and Kumaon Railway?

(b) Is the Honourable Member aware that in July last two or three officers of the Railway went there and made enquiries?

(c) Are Government aware that a considerable quantity of timber, fuel, *gur*, wheat, and rice passes this way, besides a good deal of traffic?

(d) Is it the intention of Government to open this section of the Rohilkund and Kumaon Railway?

The Honourable Sir Thomas Stewart: (a) Yes.

(b), (c) and (d). In 1933 this project was re-investigated and found to be unremunerative. As, however, the United Provinces Government have pressed for its construction they have been asked if they are prepared to give a guarantee. Investigations are now in progress to bring the figures of 1933 up to date.

SHORT STOPPAGE OF DOWN TRAINS AT HALDWANI STATION ON THE ROHILKUND
AND KUMAON RAILWAY.

176 ***Mr. Badri Dutt Pande:** (a) Is the Honourable Member for Railways aware that Haldwani is an important station on the Rohilkund and Kumaon Railway, but that the down trains stop there for a short time and thus cause great inconvenience to the passengers, whose number is always great?

(b) Is the Honourable Member prepared to recommend to the Railway authorities to increase the time of stoppage by a few minutes and thus redress the grievance of the people?

The Honourable Sir Thomas Stewart: (a) No.

(b) I will communicate the Honourable Member's suggestion to the Agent of the Rohilkund and Kumaon Railway for consideration.

Mr. Badri Dutt Pande: Thank you.

UNSTARRED QUESTION AND ANSWER

GRIEVANCES OF THE DEPARTMENTAL MAIL GUARDS AND POSTMEN IN THE
UNITED PROVINCES.

23. **Mr. Mohan Lal Saxena:** (a) Will the Honourable Member for Communications be pleased to state the number of (i) outside, and (ii) departmental candidates recruited as second grade sorters in 'O' Division in the United Provinces Circle, with dates since 1935?

(b) Is it a fact that in May, 1935, certain mail guards, who were matriculates entered the Department after the 16th July, 1931, and were tested by a Selection Board and approved by the Postmaster General, United Provinces, under paragraph 9 of Government of India, Industries and Labour Department Memorandum No. 130/33/(2), dated the 11th March, 1935, as second grade sorters and shortly after employed against clear vacancies?

(c) Is it a fact that the mail guards also passed the prescribed confirmation test held by a Selection Board for second grade sorters?

(d) Is it a fact that the Postmaster General, United Provinces, recruited certain outside candidates in supersession of the claims of departmental mail guards who passed the prescribed department test twice?

(e) Is it a fact that some of the outside candidates of the Postmaster General's Office, Lucknow, who had failed to pass the revised test in that office, superseded the mail guards and postmen in 'O' and Lucknow Divisions, who are qualified and approved?

(f) Is it a fact that in October, 1937, the Government of India authorised in supersession of all previous orders exemption from appearing at the newly introduced competitive examination of persons:

(i) having an aggregate satisfactory service in the department of not less than 24 months between the 15th July, 1934, and the 15th July, 1937; and

(ii) who had an aggregate satisfactory service in the department of not less than 12 months prior to the 15th July, 1937?

(g) Is it a fact that concessions mentioned in part (f) were extended to outside candidates only and not to departmental candidates who fulfilled the conditions therein?

(h) Will the Honourable Member be pleased to state the reasons for differential treatment accorded to the existing qualified departmental mail guards and postmen and also the number of officials who suffered in consequence? If so, is the Honourable Member prepared to redress their grievances in regard to supersessions by outside candidates? If not, why not?

The Honourable Sir Thomas Stewart: (a) (i) 'Thirteen, viz., three from 1st July, 1935, eight from 5th August, 1937, one from 8th November, 1937, and one from 10th November, 1937.

(ii) No departmental candidate was recruited

(b) No Four mail guards, of whom two were non-matriculantes, passed a test for the lower division and not a test in accordance with paragraph 9 of the Government Memorandum referred to. They were approved for the lower division (not second grade) of clerks and appointed merely to officiate in clear vacancies.

(c) The mail guards did not fulfil the conditions of appointment as second grade clerks laid down in paragraph 9 of the Government Memorandum referred to in the reply to part (b) of the question. They were, therefore, subjected to a fresh test for appointment. It was subsequently discovered that they had not fulfilled the condition of five years' approved service qualifying them for the clerical service and were consequently declared ineligible.

(d) In view of the facts stated in the reply to part (c) above, the question of supersession does not arise.

(e) No.

(f) No. The orders referred to are not applicable to all persons who appeared at the examination held under new recruitment rules. They are limited to the relaxation of the restrictions imposed on candidates who were debarred under the new recruitment rules from competing for appointments in the Posts and Telegraphs service in the grade of clerks and who had already served in the clerical grades in an officiating or temporary capacity for the periods mentioned in the orders.

(g) The Honourable Member is referred to the reply given to part (f) of this question. Departmental candidates are not debarred from appearing at the examination when they fulfil the conditions mentioned in the reply to part (c) of the question and are permitted to appear by the Head of the Circle.

(h) No question of differential treatment as between departmental candidates and outside candidates arises. The former test which certain departmental candidates passed was for the lower division and does not render them eligible for entry to the second grade of clerks. To qualify for that grade they are required to pass the second grade test. The departmental candidates who fulfil the prescribed conditions may appear at the discretion of the Head of the Circle for successive examinations. They are not required to compete with outside candidates and thus cannot be superseded by them. The last part of the question does not, therefore, arise.

THE INSURANCE BILL.

The Honourable Sir Nripendra Sircar (Law Member) Sir, I beg to move.

"That the amendments made by the Council of State in the Bill to consolidate and amend the law relating to the business of insurance be taken into consideration"

Sir, while I do not desire to make a long speech, I think it is but right that the House should know the attitude of the Government towards the amendments—and they are not too many in number—of which notices have been received. Sir, if Honourable Members will take up in their hands the printed list—and there is another to which I shall refer in a minute—as regards the first amendment in substitution of sub-clause (2) (f) of clause 3, I understand that the contesting parties have been able to come to some kind of agreement; and if that is so, Government will support that and that idea will be accepted by the House. Then, as regards No. 2, if that is moved, I shall oppose it. No. 3 is a small one by Mr. Susil Sen himself and that we shall support. As regards Nos. 4 and 5 for changing India into "British India", I may inform the House that I shall oppose them and my reason is this, that those amendments in the Council of State were made after very careful consideration. I had the opportunity—and I gratefully acknowledge it—of getting the assistance of Mr. Vaidyanathan who happened to be then here, and I was thoroughly convinced that this change was necessary, and if those amendments are moved, I shall deal with them in detail. I had further discussions this morning and I am confirmed in my view that this change should not be made: it would lead to very serious administrative difficulties, apart from other objections. No. 6 is in the name of Prof. Ranga reducing "45" to "40". With regard to that, I may tell the House that before I accepted the change from 45 to 40, I was in touch with the Leaders of all the parties, and they not only agreed but most of the parties pressed me to reduce 45 to 40 and that was supported and backed by the insurance interests, generally speaking. I regret, therefore, that a change which has been done with the consent or rather at the instance of the different parties of this House must be opposed by me. Now as regards No. 7, I shall come to that later if I may dispose of earlier the others. As regards amendment No. 8, which is an amendment on clause 45, Government will have no objection to accepting it. As regards No. 9, that is one by Mr. Susil Sen and I need not say anything about it. As regards No. 10, that is a slight clarification of the language of clause 114 of the Bill requiring the laying of the rules on the table of the House. That again Government will have no objection to accepting. No. 11 is by Mr. Susil Sen and I need not deal with that. That leaves No. 7 and some amendments by the same notifier, Mr. Ananthasayanam Ayyangar, and his friends, which appear on the second list. I take them together and describe them shortly as amendments of clause 40. Sir, although the amendments appearing on the second list in the name of Mr. Ananthasayanam Ayyangar were notified only yesterday, I shall not, if those amendments are moved, take the point that I had not sufficient notice, because as a matter of fact on Thursday last I was verbally informed that he was going to notify those amendments; so I have not been taken by surprise.

But let me deal with the nature of those amendments taken together, *viz.*, both in list No. 1 and in list No. 2 relating to clause 40. The position is this. The desire of the Honourable gentlemen who have given notice of this amendment is to stop a possible danger, *viz.*, of evasion of clause 40 by creating bogus posts, enabling the holder of that bogus post to receive the salary or allowances payable for that post in addition to the forty per cent. or whatever it is which is permissible to him as a licensed agent. In substance, therefore, these amendments desire that the employees of insurers should not be allowed to act as licensed agents. Sir, I quite see the possibility of the danger. If I shall oppose those amendments, should they be moved, it is because, really I do not think that they should be moved at this stage and for other reasons which I am going to indicate. It is quite true that you can get round clause 40 by creating a bogus post—if I may use that expression for brevity. At the same time, assuming as we must that the holder of this post as also the insurer are thoroughly unscrupulous, even then the proposed amendment does not shut the door against evasion. What I mean is this,—that Mr. A will be the holder of the bogus post, and the licensed agent's business will be carried on by his son or by his brother-in-law in name. Sir, it is not pure imagination on my part that this bogus system may be attempted to be followed. If I may give you some illustrations of the kind of evasions which are going on today and how dishonest people are snapping their fingers at your Insurance Bill and Company Bill, possibly that will be news to you, and show the impossibility of completely stopping evasion.

Now, I think this House by passing the Company Law has prohibited loan by one company to another company if there are directors who are common to the two companies. That is what we have provided and that applies to Insurance Companies. Let us see what is happening. Take two companies, X and Y, and assume that there are some common directors A and B. Under the provisions of the Company Law,—whether one of them is an insurance company or not does not matter,—X company is prevented from advancing money to Y company because there are common directors A and B. Now, what happens is this. X company executes a mortgage in favour of a person O. He is the bogus gentleman and he may have money or he may not have money. But the mortgage ostensibly is from X company to O. The next step is that Mr. O, who is a bogus gentleman, executes either a sub-mortgage or an assignment of the mortgage to company Y. The Y company says that it is not hit because X company has not borrowed from Y company at all. I do not suggest that is exactly what has happened in connection with a case which I shall place before you, but that shows it may have happened and how evasion is possible and is being effected. I am reading from the *Indian Finance* of the 29th of January, 1938. This is the report of the Directors of an Insurance Company. I need not name the Insurance Company. Those who are interested to find out the name of the company can do so by referring to this magazine. There is an item of 'mortgages of property in India, Rs. Twenty-three lakhs and odd', that is to say, this Insurance Company has advanced Rs. 23 lakhs odd to different mortgagors. If you look at the other side, there are two illuminating notes. This amount, according to the notes that is to say, the amount of 23 lakhs, includes a loan of Rs. 4,11,000 odd advanced to an intermediary. That

[Sir Nripendra Sircar.]

person may or may not be Mr. O in my illustration. This person, the intermediary, the screen has conveyed his security and his rights as mortgagee in the property belonging to a company, some of whose directors are the directors of the other company. The scheme is obvious. They have put in as a middleman a bogus gentleman, Mr. O, and the company snaps its fingers at the Company Law. The fear of bogus mortgagees and of bogus posts is therefore real and not imaginary.

I may also tell the House of other two instances which I have come across. They may be curious to know what they are, though I daresay my Honourable friend, Sir Homi Mody, can give you more illustrations than I can, of course with reference to rival companies and not his own companies. Now let us assume that an Insurance Company on the 30th of June has got to show by reason of the provisions which you have enacted a certain amount of Government securities. Let us say the amount is 5 lakhs of rupees. When the Superintendent examines the accounts, the company must show that it holds 5 lakhs of rupees worth of Government securities on the 30th of June. Now, what is happening is this. On the 1st of June, as a matter of fact, there are no Government securities or other approved securities worth 5 lakhs of rupees. The company has actually invested its money in other shares, which may be speculative shares, good shares, bad shares or indifferent shares. On the 1st of June, having discovered that the fateful day of 30th of June is very near, what the company does is this. It makes a forward sale of these shares deliverable, let us say, on the 5th of July. Having done that, it again enters into a transaction of the purchase of Government securities which, of course, can be sold again on a month's delivery. It means only paper entries and possibly paying or receiving differences, with the result that on the 30th of June the directors think that they are justified in stating in their account that they hold 5 lakhs of Government securities. That cannot be prevented. If I am referring to this, it is for the purpose of showing that the proposed amendments will not carry out the object which the Mover has in mind. I confess that because we cannot attain 16 annas of what we desire, that is no reason for putting in a provision like this. If that were so, we need not have made any provisions which may be called safeguards in connection with the companies or the insurance law.

Quite irrespective however, of this argument, my main objection is this. I find that this change is objected to by many of the Honourable Members of this House. I daresay there are supporters also. At the present moment a representation has been made to me and I believe that that representation has been repeated to some of the Honourable Members here, giving one instance of the creation of a bogus post. I have not been able to investigate that, but I am assuming it to be correct. If, however, as a matter of fact, there is any tendency to increase this vice, then it will be time for Government as also for this House to intervene. But at the present stage I am not prepared to make a change of this kind having regard to the stage which the Bill has reached. While saying that, I admit that the notification of these amendments has not been approached by me in any hostile spirit. On the other hand, I am really grateful and I think a very useful purpose has been served by drawing the pointed attention of the House and of the Government to a danger which

at the present moment may be very small but which may increase later on. That object has been served and gained by notifying these amendments. But I would earnestly appeal to my Honourable friend, Mr. Ananthasayanam Ayyangar, and his colleagues who have given notice of these amendments not to press this matter and not to move them now. If I may lay my cards on the table, the reason is this. It is possible—I do not say that I can guarantee the result—that these amendments will be defeated. Now, I do not care to have a victory over the Opposition in this matter because the result will be undesirable. This will encourage the idea that Government has opposed a change of this kind. It will encourage the idea that they can go on creating bogus posts and Government will keep its eyes closed. Therefore, I do think that a loss of these amendments on the floor of this House will be undesirable. Equally, supposing these amendments are carried, the result will be that our opposition here will be continued in a later stage in another place and possibly the whole Bill will be thrown into the melting-pot. For these reasons, I very earnestly appeal to the Leader of the Group from which these amendments have been notified not to press these amendments at this stage of the Bill. Sir, I hope my appeal will not go in vain.

Then, Sir, the next list may be disposed of very shortly because whatever I have to say on amendments to clause 40 of the Bill appearing in that list, I have already said. There are two amendments in the name of my Honourable friend, Mr. Suryya Kumar Som. Sir, apparently my Honourable friend—is my Honourable friend present here, I see he is not present, then all my eloquence is wasted—has broken every possible rule which is to be found in the Manual. First of all the notice is only one day's notice. But supposing that is waived, what next? My Honourable friend is trying to introduce changes in matters which have not been changed in the Council of State at all and, therefore, he cannot move them, but it will be time enough to oppose them, if they are moved. They are wholly out of order and I need not say anything more about it.

I think I have dealt with all the amendments and I have given the House the attitude of the Government towards the amendments which have been notified, and as I expect there will be some kind of arrangement for No. 1 and, should the Opposition agree not to press clause 40 to a Division, then, Sir, there is very little work before the House. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim): Motion moved:

“That the amendments made by the Council of State in the Bill to consolidate and amend the law relating to the business of insurance be taken into consideration.”

Mr. Bhulabhai J. Desai (Bombay Northern Division: Non-Muhammadan Rural): Mr. President, I shall confine myself to the amendments on which criticism and advice have been offered by the Honourable the Leader of the House, and I do not use the word ‘advice’ in any cynical spirit at all, for I am aware that the wisely regulated wisdom of the Elders has not materially altered the Bill as was passed by this House. Wisdom, indeed, they possess, but I wish to emphasise the wise direction which was given to them from time to time. Any way that has really shortened the sphere of the activities of this House on the second occasion on which the Bill has been returned.

[Mr. Bhulabhai J. Desai.]

Dealing with clause 3, sub-clause (2), item (f), the House will remember that as the Bill was then passed, the obligation imposed by that clause was in terms wider than what it is today. Clause 3, sub-clause (2), item (f) reads now.

"a certified copy of the published prospectus, if any, and of the standard policy forms of the insurer, the assured rates, advantages, terms and conditions to be offered in connection with life insurance policies, together with a certificate by an actuary that such rates, advantages, terms and conditions are workable and sound."

The noticeable omission there is that the Elders have limited item (f) to life insurance business, whereas when the Bill passed this House it referred to all forms and kinds of insurance. I am not aware exactly, why or in what way the limitation took place in the Upper House. But I wish to call attention to the necessity of bringing back item (f) as nearly as it may be practicable to its original condition having regard to the terms of clause 41 of the Bill. Clause 41 reads:

"No person shall allow or offer to allow, either directly or indirectly, as an inducement to any person to effect or renew an insurance in respect of any kind of risk relating to lives or property in India."—

—Notice the words that follow 'lives'—'or property in India',—

"any rebate of the whole or part of the commission payable or any rebate of the premium shown on the policy, nor shall any person taking out or renewing a policy accept any rebate except such rebate as may be allowed in accordance with the published prospectuses or tables of the insurer."

Sir, that clause of the Bill can only be applied successfully and usefully if either in the prospectuses or tables of the insurer, every item of insurance business and the normal premium relating thereto have been published. Otherwise you will find that clause 41 would lose most of its value if item (f) is limited only to life, and it is for that purpose that we have felt it our duty to see that the clause was brought back to its original form, namely as being applicable to all forms of insurance.

During the course of the discussion, it however transpired that whereas there would be little or no difficulty as regards fire business, as regards accident business at least in reference to workmen's compensation and to motor insurance including third party risks, it was somewhat difficult in a practicable sense that a schedule of rates can be filed with reference to marine business and other miscellaneous businesses relating to accidents. We have been able, Sir, to perceive the propriety of excepting those parts of insurance business in which the filing of these rates might be attended with grave difficulties, and there is every prospect that when we come to this clause and when the amendment is sought to be moved attempting to bring back item (f) to its original condition, we shall agree, and I hope the House will agree that the difficulties which were pointed out with reference to the filing of scheduled rates as regards those items of insurance business as impracticable would be then excepted from the operation of the clause. Item (f) would then run practically in the same form as it was before, with the exception that I have mentioned. That would probably satisfactorily meet both the amendment of item (f) and also the practical working of clause 41.

As regards the amendment relating to clause 40, I should beg leave of the House to say a few words not merely because of what fell from the Honourable the Leader of the House but also because of the larger considerations which it involves. I am aware of the manner in which, at least in two or three instances, the sections of the Indian Companies Act relating to prohibitions which were regarded as salutary in public interest as well as even before this Bill has been passed into law, some of its provisions are sought to be circumvented and ingenious devices are being found in the hope that they will escape the penalties provided for in the Indian Companies Act and in the present Bill when passed into law. During the course of the discussion that took place, I beg leave to suggest without unduly straining either the patience of the House or even the patience of the Elders the object both in the Indian Companies Act as well as in the present Act can be met, at all events, fairly successfully if in clause 40 of the Bill, if not now, at a later stage, words 'directly or indirectly' were added after the words 'pay or contract to pay'. That clause would then read:

"No person shall, after the expiry of six months from the commencement of this Act, pay or contract to pay directly or indirectly any remuneration, etc., etc.":

because it appears to me that all these devices from the point of view of any tribunal can always be met if the word 'indirectly' was added. It is true that it becomes a matter of evidence to discover whether the intervening screen was real or whether the intervening screen, that is to say whether "O" in the illustration given by the Honourable the Leader of the House was a real person or was a dummy. And from the very balance-sheet which he read out it would be perfectly obvious to any tribunal dealing with this matter that 'O' was absolutely a dummy. That is to say, where company X could not lend money to company Y that the prohibited transaction should be carried out through the intervening agency of 'O', a mortgagor, and who would then transfer the loan on a mortgage from the company Y and hold it for the benefit of company X and thus, prohibited loan would be given keeping within the letter of the law. If the words "directly or indirectly" were added this transaction will attract the penalty of the Act.

Coming back to the present Bill, the instance that has come to my knowledge is that individuals are being employed on large salaries to supplement the commission payable to their friends or dependants who are insurance agents. Undoubtedly this happens in the case of unscrupulous insurers, but legislation without attempting to distinguish between the scrupulous and unscrupulous (if it is indeed not possible so to distinguish them) aims at eliminating cases where it can be evaded, cases where the law is attempted to be defeated. It may not happen in what people call themselves respectable companies; and I have no reason to believe that all companies will not, to the extent to which it is possible, act respectably in conformity to the law. But the fact remains that as soon as a device is pointed out, it is a temptation which some resist and others do not resist; and my Honourable friend, Sir Homi Mody, will probably say that human frailty is the other way about; that if a device is found it may easily be availed of and that ethical considerations do not generally prevail in business.

Sir H. P. Mody (Bombay Millowners' Association: Indian Commerce)
Quite right.

Mr. Bhulabhai J. Desai: That being perfectly right, as I have been assured by the representative of business houses, I think the House should be careful to employ every possible means to defeat such devices. An instance which has come to my knowledge is that a man who otherwise is not probably worth Rs. 100 has been employed on Rs. 1,000 a month, the object being that the insurance agent who is really behind the screen is to that extent in a position to get added remuneration in addition to the limitation which we have placed upon him. That is the manner in which it is sought to be defeated. My suggestion is that if the words "directly or indirectly" are added a case like that can be easily and nearly always met. I agree that there may be a case on the border-line where the tribunal may not be able to come to a decision that the particular employee,—I will also call him 'O',—is a mere screen to add to the limited commission allowed under the Act or a real person worth Rs. 1,000. But once the word "indirectly" is there, every company would have to be very cautious before employing a man and giving him a salary out of all proportion to his business ability. That is the shortest way in which the matter can be met and if it commends itself to you and to the House and, the Leader of the House, it is the easiest amendment which will carry out the object we all have in view.

It is common ground that it is no use passing an Act if it is going to be defeated by some device which has occurred to us before it has become law at all. One may have other exigencies and circumstances to wait for amendments as it must arise in Bills of this kind and I would not mind waiting myself; but if this amendment could be carried without pressing any other amendment on the paper before you,—adding the words "directly or indirectly" in clause 40,—it will serve the purpose, and I do commend this to the House. But after all is said and done, when you come to examine cases of this kind, if they are patent they will be discovered, but if on the other hand they are on the border line, one may give the benefit of doubt to the employer and not come to the conclusion that a highly paid individual is there only with the object of evading the Act.

There is also another consideration which I wish to point out with reference to what fell from the Honourable the Leader of the House. I know a very historic case which took place with reference to one of the biggest banks we had in Western India which unfortunately failed. There the evasion was in a manner quite as ingenious, if not more ingenious, than the one illustration which he gave, with reference to what may occur in the case of an insurance company. A large amount of money was either lent to the directors or had been already expended in large speculations in a metal which is somewhat dazzling, although not quite so dazzling as gold. When it came to the fatal 30th June, promissory notes to the tune of some 32 lakhs by apparently respectable gentlemen were placed in the possession of the bank's officers, thereby representing that the bank's monies were invested in sound securities. And it went on not merely for one audit but for five audits before the bank actually failed. Therefore, while we are aware that law is and may be evaded in cases of this kind, that does not and should not render us entirely helpless and to the extent

to which we can provide against the evasion of the law we must do so; because, law is worth making a law only if, as far as in us lies, we prevent its evasion and defeat the purpose of the evader.

So much with reference to clause 40 and the amendments relating thereto. As regards the other amendments they are of a nature which does not require any detailed examination. And I must confess, speaking at least for myself, that in a measure of this kind difficulties will appear in course of time during the working of the Bill, and I hope the Government will not be reluctant to put in a short amending Bill, if one were called for, either for the purpose of meeting an evasion or for the purpose of removing a difficulty found in its actual operation. I recognise that it is a new piece of legislation on a subject on which legislation, such as there was, was more or less sketchy and of a very superficial character. And notwithstanding many disappointments and many successes, as each Party looked at this measure, the fact remains that though we have not been able to satisfy every single interest concerned in this Bill, whether the interest be Indian or non-Indian, and whether among Indians where there are different interests,—I am quite certain that there is a general feeling of satisfaction,—though sometimes not openly expressed but always privately and sincerely admitted,—that the Bill has taken a step in the right direction in placing the insurance law on as firm and sound a footing as it was possible to do at this stage of the Indian Central Legislatures.

The Honourable Sir Nripendra Sircar: Sir, may I just say a word in reply with reference to the observations made by my Honourable friend, the Leader of the Opposition? I should like to say that I am at one with him, and if in the working of the Bill we find that abuses, whether referable to section 40 or any other abuses, are showing a tendency to increase, I can give the assurance to this House that I shall be as prompt as circumstances will permit in bringing an amending Bill.

Mr. President (The Honourable Sir Abdur Rahim): The question is:

“That the amendments made by the Council of State in the Bill to consolidate and amend the law relating to the business of insurance be taken into consideration.”

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is:

“That the re-numbering and re-lettering of the clauses, sub-clauses and forms in the Bill, as necessitated by the amendments made in the Bill during its passage by the Legislative Assembly, by the Council of State and the changes consequential thereon in all references throughout the Bill be agreed to.”

The motion was adopted.

Mr. M. Asaf Ali (Delhi: General): On a point of order, Sir. I do not think the first amendment was moved at all really.

The Honourable Sir Nripendra Sircar: It has not got to be moved.

Mr. President (The Honourable Sir Abdur Rahim): The question is:

“That in the Bill as so re-numbered, re-lettered and consequentially changed—
In clause 2—

- (a) in sub-clause (3) in the definition of ‘approved securities’, for the words ‘municipal corporations in any Presidency-town’ the words ‘municipal corporation’ be agreed to; and

[Mr. President.]

{b) in item (b) of sub-clause (g)—

- (i) for the words and figures 'incorporated under the Indian Companies Act, 1913' the words 'incorporated under any law for the time being in force in British India' be agreed to; and
- (ii) for the words 'that Act', where they first occur, the words and figures 'the Indian Companies Act. 1913' be agreed to."

The motion was adopted.

Mr. Sami Vencatachelam Chetty (Madras: Indian Commerce): Sir, I move:

"That for sub-clause (2) (f) of clause 3 of the Bill, the following be substituted:

'(f) a certified copy of the prospectus, if any, and of the standard policy forms of the insurer and statements of the assured rates, advantages, terms and conditions to be offered in connection with insurance policies together with a certificate in connection with life insurance business by an actuary that such rates, advantages, terms and conditions are workable and sound' "

The Honourable Sir Nripendra Sircar: Sir, I am opposing this amendment, but I am accepting the one which has been agreed to between the Parties, which has been circulated.

Mr. M. Ananithasayanam Ayyangar (Madras ceded Districts and Chittoor: Non-Muhammadan Rural): Sir, that is in addition to this. It is an amendment to this amendment. I move:

"That in the amendment just moved:

(1A) in line one before the word 'prospectus' the word 'published' be added, and

(1B) the following proviso be added at the end:

'Provided that in the case of marine, accident and miscellaneous insurance business other than workmen's compensation and motor-car insurance the above requirements regarding prospectus forms and statements shall be complied with only in so far as the prospectus, forms and statements may be available'."

Mr. President (The Honourable Sir Abdur Rahim): The question is:

"That in the amendment just moved:

(1A) in line one before the word 'prospectus' the word 'published' be added, and

(1B) the following proviso be added at the end:

'Provided that in the case of marine, accident and miscellaneous insurance business other than workmen's compensation and motor-car insurance the above requirements regarding prospectus, forms and statements shall be complied with only in so far as the prospectus, forms and statements may be available'."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is:

"That for sub-clause (2) (f) of clause 3 of the Bill, the following be substituted:

'(f) a certified copy of the published prospectus, if any, and of the standard policy forms of the insurer and statements of the assured rates, advantages, terms and conditions to be offered in connection with insurance policies together with a certificate in connection with life insurance business by an actuary that such rates, advantages, terms and conditions are workable and sound.

Provided that in the case of marine, accident and miscellaneous insurance business other than workmen's compensation and motor-car insurance the above requirements regarding prospectus, forms and statements shall be complied with only in so far as the prospectus, forms and statements may be available."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): Then we come to amendment No. 2 in the printed list.

Mr. K. Santhanam (Tanjore *cum* Trichinopoly: Non-Muhammadian 12 Noon. Rural): Sir, I move:

"That in sub-clause (1) of clause 8 of the Bill, all the words occurring after the words 'upon a policy' be omitted."

Sir, as the Honourable the Leader of the House has said that he is going to oppose this amendment, I am afraid, I shall have to explain why we have tabled this amendment. As the sub-clause stands as amended by the Council of State, it says that "the deposits shall not be liable to attachment in execution of any decree except a decree obtained by a policy-holder of the insurer in respect of a debt due. . . .

Mr. President (The Honourable Sir Abdur Rahim): Just wait, I am afraid there has been confusion.

The Honourable Sir Nripendra Sircar: May I make a suggestion, Sir. I would draw your attention to Legislative Rule No. 35, at page 91, where it is said that if a motion that the amendments be taken into consideration is carried, the President shall put the amendments to this Chamber in such a way as he thinks most convenient for their consideration. I suggest, Sir, a course which will be convenient. In considering these amendments made by the Council of State, where there are no amendments made here, I submit all that is necessary is to put to the House that Amendment No. 2 in connection with say clause 2 as made in the Council of State be agreed to. What we want is concurrence.

Mr. President (The Honourable Sir Abdur Rahim): Do you suggest that the whole amendment need not be read?

The Honourable Sir Nripendra Sircar: It need not be read, Sir.

Mr. President (The Honourable Sir Abdur Rahim): Well, if that suits the House, I have no objection to adopt that practice and save the time of the House.

The Honourable Sir Nripendra Sircar: Now you have to put again that amendment No. 2 as amended in this House be concurred in.

Mr. President (The Honourable Sir Abdur Rahim): The amendment of this House, that is No. 1. in the printed list, has been carried.

Sir Cowasji Jehangir (Bombay City: Non-Muhammadian Urban): Sir, clause 2 has not been put. As suggested by the Honourable the Leader of the House, if you put clause 2, then you come to No. 3 to which an amendment has been moved

The Honourable Sir Nripendra Sircar: May I point out, Sir, that the clauses need not be put again. What you have to do is, to inquire whether the House agrees to amendments Nos. 1, 2, 3 and so on as made by the Council of State. They have merely to be agreed to. All that is necessary to state here is that Amendment No. 2 in the Council of State, as amended here, be agreed to.

Mr. President (The Honourable Sir Abdur Rahim): The question is "That the amendment* to clause 3 as made by the Council of State, and as amended, be agreed to."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is

"That the amendment† to clause 4 as made by the Council of State be agreed to."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is

"That the amendment‡ to clause 5 as made by the Council of State be agreed to."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is

"That the amendment§ to clause 6 as made by the Council of State be agreed to."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is

"That the amendment¶ to clause 7 as made by the Council of State be agreed to."

The motion was adopted.

Mr. K. Santhanam: I beg to move:

"That in sub-clause (1) of clause 8 of the Bill, all the words occurring after the words 'upon a policy' be omitted."

In the section as modified by the Council of State it is stated.

"nor shall it be liable to attachment in execution of any decree except a decree obtained by a policy holder of the insurer in respect of a debt due upon a policy which debt the policy-holder has failed to realise in any other way."

The latter part has been inserted by the Council of State as a result of which, unless the policy holder has exhausted all other steps to recover his policy amount, he cannot attach this deposit. That is to say, until he has taken the company into liquidation, he cannot come to the Superintendent and say, "This insurer has failed to pay my policy amount".

*For this Amendment (No. 2) see p. 70 of these Debates.

†For this Amendment (No. 3) see p. 70 of these Debates.

‡For this Amendment (No. 4) see p. 71 of these Debates.

§For this Amendment (No. 5) see p. 71 of these Debates.

¶For this Amendment (No. 6) see p. 71 of these Debates.

That is as good as saying that the clause be deleted. There is no sense in the present amendment made by the Council of State. Either this deposit should be useful to the policy holder for the realisation of his claims or this deposit should not be a security. In the original clause it was said :

"Nor shall it be liable to attachment in execution of a decree except a decree obtained by a policy holder of the insurer in respect of a debt due upon a policy."

The subsequent words were not there. The Superintendent has always the power to call upon the insurer to make up any deficit in the deposit. Therefore, if the amendment is carried, any policy holder who has failed to realise his money can attach this deposit and the money will be paid out of the deposit, and immediately the Superintendent will issue notice to the insurance companies saying 'Please pay up the amount'. It will be a sort of summary proceeding in favour of the policy holder and the very fact that the provision exists will make the insurer very careful to pay all decrees promptly. He would not wait till the deposit is attached. Therefore, I do not see why the Government should object to this simple amendment. Otherwise, I am afraid it will encourage insurers to postpone payment and put all kinds of obstacles in the way of the easy realisation of the decrees in relation to the policies. I move

Mr. President (The Honourable Sir Abdur Rahim). Amendment moved :

"That in sub-clause (1) of clause 8 of the Bill all the words occurring after the words 'upon a policy' be omitted."

The Honourable Sir Nripendra Sircar: I oppose the amendment and I hope the House will not accept it. The amended clause as it now stands means this, that the deposit money will be available for satisfaction of a debt due on a policy, but the decree holder has got first of all to see whether he cannot recover his dues from other funds or other assets of the company. There is no question of liquidation. There must be liquidation before you can come to the deposit, my friend, Mr. Santhanam, said; but that is not correct. What is the idea of a deposit—that it will be available as a kind of guarantee or security for all policy holders. Why should not a policy holder who has obtained his decree in the first instance take it from other sources. Why should he not take it from other funds of the life insurance company. How is the decree holder prejudiced? He attaches other funds. If he cannot get money from those funds, then he proceeds against the deposit but there is danger in my Honourable friend's amendment. If this is carried every one having a decree on a policy will proceed straight to the deposit. Is that desirable and why should that be done. It is quite true that after the money has been taken away the Superintendent has got the power to call upon the insurance company to make up the deficiency, but why should it be enacted by us that the decree holder who has got other funds to look to should go and attach the deposit in the first instance. I submit that in the interest of the general body of policy holders the decree-holder should not be given the right suggested by my Honourable friend. It is easy to imagine that there may be consent decrees, collusive decrees, decrees in favour of directors and so on. Why should they be allowed to go against deposit in the first instance? I oppose it.

Mr. Sami Vencatachalam Chetty: I am afraid the explanation given by the Honourable the Law Member is unconvincing. If the deposit has been

[Mr. Sami Vencatachellam Chetty.]

built up for the safety of the policy holders, it stands to reason that the policy holders should look to it for the satisfaction of their decrees. After all, decrees are the last steps which a policy holder can take for the realisation of his amounts from the insurance company. No sound insurance company would drive its policy holder to obtain a decree against it, if it can possibly avoid it. It is only in the last resort when other reserves are exhausted that going to the deposit will come into play, and if at this stage the policy holders are driven to roam about all places where possibly there are no funds of this insurance company, it would seem to me quite unnecessary to build up a fund called deposit in favour of the so-called policy holders. For whose benefit should this deposit go on accumulating if a policy holder cannot get his money from the funds which have been kept for that purpose. As I say, the resources of the insurance company might have exhausted in other places. And should the policy holder be compelled to spend money in finding out why the resources available for his decree should be so available to him and why he should get satisfaction. Sir, it seems to me that it is killing the policy holder, for whom this Bill is designed, with an amount of kindness which he does not require.

Mr. President (The Honourable Sir Abdur Rahim): The question is:

"That in sub-clause (1) of clause 8 of the Bill all the words occurring after the words 'upon a policy' be omitted."

The motion was negatived.

Mr. President (The Honourable Sir Abdur Rahim): The question is:

"That the amendment† to clause 8 as made by the Council of State be agreed to."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is:

"That the amendment† to clause 10 as made by the Council of State be agreed to."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is:

"That the amendment† to clause 12 as made by the Council of State be agreed to."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): Amendment No. 10† in the list of amendments made by the Council of State.

Mr. S. C. Sen (Government of India: Nominated Official): Sir, I move:

"That in the proviso to clause 15(1) for the words 'said period' the words 'said period of six months' be substituted."

Sir, it is not necessary to treat this matter in detail, but if Honourable Members will look at sub-clause (1) before the proviso, that provides for a period of six months from the end of the period within which the audited accounts and statements are to be submitted. The proviso speaks of "the said period" and in order to clear it up, it is necessary that the words "said period of six months" should be substituted. Sir, I move.

† For these amendments (Nos. 7, 8, 9 and 10) see p. 72 of these Debates.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That in the proviso to clause 15(1) for the words 'said period' the words 'said period of six months' be substituted."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That the amendment† to clause 15 as made by the Council of State, and as amended, be agreed to."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That the amendment† to clause 16 as made by the Council of State be agreed to." The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That the amendment† to clause 19 as made by the Council of State be agreed to." The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim). The question is: "That the amendment† to clause 20 as made by the Council of State be agreed to." The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That the amendment‡ to clause 21 as made by the Council of State be agreed to."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That the amendment‡ to clause 27 as made by the Council of State be agreed to."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That the amendment§ to clause 28 as made by the Council of State be agreed to."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That the amendment§ to clause 29 as made by the Council of State be agreed to."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That the amendment§ to clause 31 as made by the Council of State be agreed to."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That the amendment§ to clause 32 as made by the Council of State be agreed to."

The motion was adopted.

†For these Amendments (Nos. 10, 11, 12 and 13) see p. 72 of these Debates.

‡For these Amendments (Nos. 14 and 15) see p. 72 of these Debates.

§For these Amendments (Nos. 16, 17, 18 and 19) see p. 73 of these Debates.

Mr. President (The Honourable Sir Abdur Rahim) The question is
 "That the amendment* to clause 33 as made by the Council of State be agreed to"
 The motion was adopted

Mr. President (The Honourable Sir Abdur Rahim) The question is
 "That the amendment† to clause 35 as made by the Council of State be agreed to"
 The motion was adopted

Mr. President (The Honourable Sir Abdur Rahim) The question is
 "That the amendment‡ to clause 38 as made by the Council of State be agreed to"
 The motion was adopted

Mr. President (The Honourable Sir Abdur Rahim) The question is
 "That the amendment§ to clause 40 as made by the Council of State be agreed to"
 The motion was adopted

Mr. President (The Honourable Sir Abdur Rahim) The question is
 "That the amendment¶ to clause 41 as made by the Council of State be agreed to."
 The motion was adopted

Mr. President (The Honourable Sir Abdur Rahim) The question is
 "That the amendment‡ to clause 42 as made by the Council of State be agreed to."
 The motion was adopted

Mr. President (The Honourable Sir Abdur Rahim) The question is
 "That the amendment§ to clause 43 as made by the Council of State be agreed to."
 The motion was adopted

Mr. President (The Honourable Sir Abdur Rahim) The question is
 "That the amendment¶ to clause 44 as made by the Council of State be agreed to."
 The motion was adopted

Mr. Sami Vencatachalam Chetty: Sir, I beg to move
 "That in clause 45 of the Bill, before the words 'No policy of life insurance' the following be inserted.
 'No policy of life insurance effected before the commencement of this Act shall after the expiry of two years from the date of commencement of this Act and'."

*For this Amendment (No 20) see p 73 of these Debates

†For this Amendment (No 21) see p 73 of these Debates

‡For these Amendments (Nos 22, 23, 24 and 25) see p 74 of these Debates

§For this Amendment (No 26) see p 75 of these Debates.

¶For this Amendment (No 27) see p 75 of these Debates.

Mr. President (The Honourable Sir Abdur Rahim) Amendment moved

"That in clause 45 of the Bill, before the words 'No policy of life insurance' the following be inserted

'No policy of life insurance effected before the commencement of this Act shall after the expiry of two years from the date of commencement of this Act and'."

The Honourable Sir Nripendra Sircar: I accept the amendment

Mr. President (The Honourable Sir Abdur Rahim) The question is

"That in clause 45 of the Bill, before the words 'No policy of life insurance' the following be inserted

'No policy of life insurance effected before the commencement of this Act shall after the expiry of two years from the date of commencement of this Act and'."

The motion was adopted

Mr. President (The Honourable Sir Abdur Rahim) The question is

"That the amendment* to clause 45 as made by the Council of State, and as amended, be agreed to"

The motion was adopted

Mr. President (The Honourable Sir Abdur Rahim) The question is

"That the amendment† to clause 48 as made by the Council of State be agreed to"

The motion was adopted

Mr. President (The Honourable Sir Abdur Rahim) The question is

"That the amendment† to clause 49 as made by the Council of State be agreed to"

The motion was adopted

Mr. President (The Honourable Sir Abdur Rahim) The question is

"That the amendment† to clause 50 as made by the Council of State be agreed to"

The motion was adopted

Mr. President (The Honourable Sir Abdur Rahim) The question is

"That the amendment† to clause 51 as made by the Council of State be agreed to"

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim) The question is

"That the amendment† to clause 52 as made by the Council of State be agreed to"

The motion was adopted

Mr. President (The Honourable Sir Abdur Rahim) The question is

"That the amendment‡ to clause 56 as made by the Council of State be agreed to"

The motion was adopted

*For this Amendment (No 28) see p. 75 of these Debates

†For these Amendments (Nos 29, 30, 31, 32 and 33), see p. 75 of these Debates.

‡For this Amendment (No 34), see p. 76 of these Debates.

Mr. S. C. Sen: Sir, I beg to move:

"That in clause 60 after the word 'company' where it occurs the second, third and fourth time, the words 'or other insurer' be inserted."

This is only making good an omission, because the section deals with a company and other insurers and it is to make it clear that this amendment is moved Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim): Amendment moved

"That in clause 60 after the word 'company' where it occurs the second, third and fourth time, the words 'or other insurer' be inserted."

Mr. M. Ananthasayanam Ayyangar: Sir, I have not been able to understand the implication of the amendment. The winding of a partnership is all right but the winding of an individual is rather difficult. Therefore, it will be all right if we say "the winding up of the business of any other insurer".

Mr. S. C. Sen: With your permission, Sir, I may point out that it is not intended to put the words 'or other insurer' after the word 'company' where it occurs for the first time. Therefore, the contingency which my friend is apprehending does not arise.

Mr. President (The Honourable Sir Abdur Rahim): The question is:

"That in clause 60 after the word 'company' where it occurs the second, third and fourth time, the words 'or other insurer' be inserted."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is:

"That the amendment† to clause 60 as made by the Council of State, and as amended, be agreed to."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is:

"That the amendment‡ to clause 63 as made by the Council of State be agreed to."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is:

"That the amendment‡ to clause 64 as made by the Council of State be agreed to."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is:

"That the amendment‡ to clause 65 as made by the Council of State be agreed to."

The motion was adopted.

†For this Amendment (No. 35), see p. 76 of these Debates.

‡For these Amendments (Nos. 36, 37 and 38) see p. 76 of these Debates

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That the amendment* to clause 70 as made by the Council of State be agreed to."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That the amendment* to clause 72 (now clause 73) as made by the Council of State be agreed to."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That the amendment* to clause 79 (now clause 80) as made by the Council of State be agreed to."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That the amendment* to clause 84 (now clause 85) as made by the Council of State be agreed to."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That the amendment* to clause 86 (now clause 87) as made by the Council of State be agreed to."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That the amendment* to clause 91 (now clause 92) as made by the Council of State be agreed to."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That the amendment† to clause 93 (now clause 94) as made by the Council of State be agreed to."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That the amendment‡ to Part IV as made by the Council of State be agreed to."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That the amendment‡ to clause 94 (now clause 95) as made by the Council of State be agreed to."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That the amendment‡ to clause 99 (now clause 100) as made by the Council of State be agreed to."

The motion was adopted.

*For these Amendments (Nos. 39, 40, 41, 42, 43 and 44) see p. 76 of these Debates.

†For these Amendments (Nos. 45 and 46) see p. 76 of these Debates.

‡For these Amendments (Nos. 47 and 48), see p. 77 of these Debates.

Mr. President (The Honourable Sir Abdur Rahim): The question is:

"That the amendment† to clause 100 (now clause 101) as made by the Council of State be agreed to."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "

"That the amendment† to clause 102 (now clause 103) as made by the Council of State be agreed to."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is:

"That the amendment† to clause 106 (now clause 107) as made by the Council of State be agreed to."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is:

"That the amendment† to clause 110 (now clause 111) as made by the Council of State be agreed to."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is:

"That the amendment† to clause 112 (now clause 113) as made by the Council of State be agreed to."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): Clause 113 (now clause 114).

Mr. Manu Subedar (Indian Merchants' Chamber and Bureau: Indian Commerce): Sir, I beg to move:

"That in clause 114 of the Bill for the proviso to sub-clause (2) the following be substituted:

"Provided that every rule made under this section shall be laid as soon as may be after it is made before both Chambers of the Central Legislature for one month while they are in Session; and, if within one month from the later date on which the rule has so been laid both Chambers agree in making any modification in the rule or both Chambers agree that the rule should not be made the rule shall thereafter have effect only in such modified form or shall be of no effect, as the case may be."

Mr. President (The Honourable Sir Abdur Rahim): Amendment moved:

"That in clause 114 of the Bill for the proviso to sub-clause (2) the following be substituted:

"Provided that every rule made under this section shall be laid as soon as may be after it is made before both Chambers of the Central Legislature for one month while they are in Session; and, if within one month from the later date on which the rule has so been laid both Chambers agree in making any modification in the rule or both Chambers agree that the rule should not be made the rule shall thereafter have effect only in such modified form or shall be of no effect, as the case may be."

The Honourable Sir Nripendra Sircar: Sir, I accept the amendment.

†For these Amendments (Nos. 49, 50, 51, 52 and 53), see p. 77 of these Debates.

Sir Cowasji Jehangir: Mr. President, the point for consideration was whether these rules should come into effect before or after the two Chambers have had an opportunity of considering them. It has now been decided that the rule shall first come into effect and the Chambers then shall have an opportunity of expressing an opinion. May I make one request to the Honourable the Leader of the House? He has many months within which to consider these rules, draft them and to adopt them. Would he see his way to place them—only the first rules in the initial stage and never afterwards—before the House before they come into effect, so that the public may have an opportunity of considering them? I make this request to him, if it is possible to do so. I would make this request because in the very first instance, there may be many points in these rules on which the Honourable Members would like to express an opinion, and if the rules came into effect straightaway, there might be some difficulty felt both by the Companies and by the Government in having to amend them afterwards. I would make this request to the Honourable the Leader of the House to do so if he possibly can.

The Honourable Sir Nripendra Sircar: May I say that that cannot be done and it is for this reason. Supposing we say that the Act comes into operation—taking an imaginary date—the 1st October, 1938. We frame the rules, let us assume if we are expeditious, we can frame our rules before the 1st October, 1938. Now then what happens? The rules are not in operation, but the Act has got to come into operation. There may be no Assembly sitting. What will happen in the meantime? There are no rules whatsoever. Let us take another date. The Act comes into operation on 1st December, 1938. If I comply with the Honourable Member's request, then until these rules have been changed in the House or agreed to in the House they do not come into operation. What happens in the meantime? I submit, Sir, we have considered the matter, and if it were possible, we would have done it.

Sir Cowasji Jehangir: I will suggest a way out, if the Honourable Member would listen to me.

The Honourable Sir Nripendra Sircar: If the Honourable Member would show me the way after the Bill had been passed, I would certainly consider it.

Mr. President (The Honourable Sir Abdur Rahim): The question is:

"That in clause 114 of the Bill for the proviso to sub-clause (2) the following be substituted:

"Provided that every rule made under this section shall be laid as soon as may be after it is made before both Chambers of the Central Legislature for one month while they are in Session; and, if within one month from the later date on which the rule has so been laid both Chambers agree in making any modification in the rule or both Chambers agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or shall be of no effect, as the case may be."

The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is:

"That the amendment† to clause 113 (now clause 114) as made by the Council of State, and as amended, be agreed to."

The motion was adopted.

†For this Amendment (No. 54), see p. 77 of these Debates.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That the amendment† to clause 115 (now clause 116) as made by the Council of State be agreed to."
The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That the amendment† to clause 117 (now clause 118) as made by the Council of State be agreed to."
The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That the amendment† to clause 118 (now clause 119) as made by the Council of State be agreed to."
The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That the new clause† as inserted by the Council of State after clause 118 (now clause 119) be agreed to."
The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That the amendment† to the First Schedule as made by the Council of State be agreed to."
The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That the amendment† to the Third Schedule as made by the Council of State be agreed to."
The motion was adopted.

Mr. S. C. Sen: Sir, I move:

"That in Part II of the Fourth Schedule, in items 6, 7 and 8 for the words 'policy owners' wherever they occur, the word 'policy-holders' be substituted."

In the body of the Act we have all along used the word "policy-holders" and that is why this amendment is necessary. Sir, I move.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That in Part II of the Fourth Schedule, in items 6, 7 and 8 for the words 'policy owners' wherever they occur, the word 'policy-holders' be substituted."
The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That the amendment† to the Fourth Schedule as made by the Council of State, and as amended, be agreed to."
The motion was adopted.

Mr. President (The Honourable Sir Abdur Rahim): The question is: "That the re-numbering necessitated by the amendments made in the Council of State and all references to the numbering of the clauses as corrected being required by such re-numbering be agreed to."
The motion was adopted.

The Assembly then adjourned till Eleven of the Clock on Wednesday, the 9th February, 1938.

†For these Amendments (Nos. 55, 56, 57, 58, 59 and 60) see p. 78 of these Debates.

†For this Amendment (No. 61) see p. 78 of these Debates.

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